

## **MINUTES**

### **MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON EDUCATION AND CULTURAL RESOURCES**

**Call to Order:** By **CHAIRMAN BILL GLASER**, on March 7, 2001 at 3:19 P.M., in Room 405 Capitol.

#### **ROLL CALL**

**Members Present:**

Sen. Bill Glaser, Chairman (R)  
Sen. Jack Wells, Vice Chairman (R)  
Sen. John C. Bohlinger (R)  
Sen. Edward Butcher (R)  
Sen. John Cobb (R)  
Sen. Jon Ellingson (D)  
Sen. Jim Elliott (D)  
Sen. Sam Kitzenberg (R)  
Sen. Don Ryan (D)  
Sen. Debbie Shea (D)  
Sen. Mike Sprague (R)  
Sen. Mignon Waterman (D)

**Members Excused:** Sen. Dale Berry (R)  
Sen. Alvin Ellis Jr. (R)

**Members Absent:** None.

**Staff Present:** Linda Ashworth, Committee Secretary  
Eddy McClure, Legislative Branch

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: HB 265, 3/2/2001; HB 134,  
3/2/2001; HB 267, 3/2/2001; HB  
349, 3/2/2001  
Executive Action: HB 349; HB 134; HB 267; HB 249

#### **HEARING ON HB 265**

**Sponsor:** REP. TOM FACEY, HD 67, Missoula

**Proponents:**      **Bill Cooper, Office of Public Instruction**  
                         **Joyce Scott, Office of the Commissioner of Higher**  
                         **Education**  
                         **Dustin Stewart, ASMSU**  
                         **Bob Vogel, Montana School Boards Association**  
                         **Beth Sirr, Self, Helena**

**Opponents:**      None

**Opening Statement by Sponsor:**

**REP. TOM FACEY**, opened on HB 265. He testified that HB 265 would authorize school boards to enter into inter-local agreements with post-secondary institutions, which would allow 11<sup>th</sup> and 12<sup>th</sup> grade students to obtain credits through attending classes at those institutions. The bill would also provide eligibility criteria and require payment of fees by the school districts.

***{Tape : 1; Side : A; Approx. Time Counter : 0 - 4}***

**Proponents' Testimony:**

**Bill Cooper, Office of Public Instruction**, avowed support for HB 265. **Mr. Cooper** viewed the bill as an opportunity that would emphasize the seamless web they are trying to create in kindergarten through grade 16. It would assist schools, parents and students in maximizing their resources. The bill would have flexibility and local control at the board of trustee level.

**Joyce Scott, Office of the Commissioner of Higher Education**, rose in support of HB 265 stating the initiative would encourage high school students to take advantage of available offerings in post-secondary education.

**Dustin Stewart, representing 15,000 Montana University System students**, narrated a personal story pertaining to his high school experiences in the advance placement program.

**Bob Vogel, Montana School Boards Association**, proclaimed strong support for HB 265, apprising the committee that the amendments would strengthen the bill. **Mr. Vogel** maintained the bill would provide opportunities for communities and young people.

**Beth Sirr, representing herself**, elaborated on her support for HB 265. **Ms. Sirr** submitted written testimony, **EXHIBIT(eds52a01)**.

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**Opponents' Testimony:** None

**Informational Testimony:** None

**Questions from Committee Members and Responses:**

**SEN. JOHN COBB** wondered if the student would pay part of the tuition. **REP. FACEY** inferred it would depend on the agreement between the high school and the post-secondary institution.

**SEN. COBB** offered suggestions to the bill that would clarify the language regarding tuition. **Eddye McClure** explained that if the student were to drop out, halfway through the course, the post-secondary institution would reimburse the tuition costs to the district.

**SEN. DON RYAN** commented that because of budget cuts, advanced placement programs could be in danger.

**SEN. ED BUTCHER** indicated the student could pay for the advanced placement program. **Eddye McClure** recounted that the district would pay the tuition as per the agreement, between the local district and the post-secondary institution. The student would pay for transportation, books, room and board.

**SEN. BUTCHER** questioned the cost of tuition. **Ms. McClure** restated that the cost of tuition would be covered by the district.

**SEN. BUTCHER** asked **REP. FACEY** if he would object to the student being responsible for the tuition. **REP. FACEY** stated the intention of lines 24 and 25, which would provide options that would be dependent upon the agreement between the district and the post-secondary institution. Such a cafeteria plan would allow flexibility between the two entities.

**SEN. BUTCHER** wondered if the words, "by the district or the students", should be added to lines 24 and 25. **REP. FACEY** agreed to the addition if it would maintain flexibility.

***{Tape : 1; Side : A; Approx. Time Counter : 11 - 19}***

**Closing by Sponsor:**

**REP. FACEY** closed on HB 265.

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HEARING ON HB 134

Sponsor: REP. TOM FACEY, HD 67, Missoula

Proponents: Bill Cooper, Office of Public Instruction  
Bob Vogel, Montana School Boards Association  
Nancy Schlepp, Montana Farm Bureau  
Arliene Parisot, Director of Work Force  
Development, Office of the Commissioner of  
Higher Education

Opponents: None

Opening Statement by Sponsor:

REP. FACEY informed the committee that HB 134 would address agriculture education, business and marketing education, family and consumer sciences education and industrial technology education. He declared that HB 134 would put the funding formula for vocational education programs into statute. The bill would include competency-based applied learning that contributes to the academic knowledge, higher-order reasoning and problem-solving skills, work attitudes, general employability skills, technical skills and occupation-specific skills of the pupil.

The program funds would be dispersed through a formula that would be based on four factors, as listed on page 12, line 20-24. REP. FACEY narrated that the appropriations for the bill were contained in HB 2.

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Proponents' Testimony:

Bill Cooper, Office of Public Instruction, avowed support for HB 134. Mr. Cooper submitted written testimony, **EXHIBIT**(eds52a02).

Bob Vogel, Montana School Boards Association, presented support for HB 134.

Nancy Schlepp, Montana Farm Bureau, stated her belief on the importance of vocational education.

Arlene Parisot, Work Force Development, Office of the Commissioner of Higher Education, rose in support of HB 134. She

explained that as the distributor of the Perkins Funds in the state of Montana she would work closely with the Division of Career and Vocational Education at the Office of Public Instruction. She enlarged on the value of technical education in the state.

**Opponents' Testimony:** None

**Informational Testimony:** None

**Questions from Committee Members and Responses:**

**SEN. JON ELLINGSON** summarized the bill would provide a new formula for the distribution of funds for vocational education and that formula would be based on actual enrollment in vocational programs as opposed to a headcount by the school. **Bob Vogel** agreed with **SEN. ELLINGSON'S** summarization.

**SEN. ELLINGSON** referred to the fiscal note and wondered if the change in the distribution of funds would result in money being taken away from other programs. **Mr. Vogel** surmised that the funding would be prorated. **Mr. Vogel** asked that the question be referred to **Bill Cooper**.

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**Mr. Cooper** deferred to the expertise of **Jody Messinger, Office of Public Instruction**. **Ms. Messinger** informed the committee that the limited amount of funds must be divided among all the schools and programs that request it. She clarified past distribution of funds, stating that the dispersion of the funds was based on ANB, the expenditures of the program and the number of students enrolled in vocational organizations. This bill would provide a funding formula that would be more equitable.

**SEN. ELLINGSON** questioned whether the distribution of funds had been based on a per student basis. **Ms. Messinger** explained that the total enrollment was figured on the ANB amount of money and factored in the vocational enrollment and the extended contracts, which resulted in funding for each district.

**SEN. BUTCHER** stated his belief that the statute would allow the schools to maintain their eleven month vo-ed programs. **Ms. Messinger** replied that it would be the same as it had always been, with some programs receiving slightly more and some receiving slightly less.

**SEN. BUTCHER** wondered if currently the programs were funded by the total number of students in the school or the number of students in the vo-ed programs. **Ms. Messinger** responded that one factor was the ANB generated amount. Then the other factors were applied. With HB 134, ANB would not be relevant because rural schools have a higher percentage of vocational students than urban schools.

**SEN. BUTCHER** hypothesized that the rural schools would receive more money than the larger schools. **Ms. Messinger** asserted that the money had always gone to the programs.

**SEN. MIGNON WATERMAN** commented that she would feel better about the formula if there could be more money added to the program.

**SEN. COBB** referred to the term, "weighted factors" on page 12 of the bill. He questioned how the factors were weighted. **Jody Messinger** rationalized that the factors would be identified in HB 134.

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**Closing by Sponsor:**

**REP. TOM FACEY** closed on HB 134 summarizing the bill would simplify the formulas that would determine the distribution of vocational education money.

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**HEARING ON HB 267**

**Sponsor:** REP. CAROL JUNEAU, HD 85, Browning

**Proponents:** Bill Cooper, Office of Public Instruction

**Opponents:** None

**Opening Statement by Sponsor:**

**REP. CAROL JUNEAU** stated that HB 267 would revise the language of 20-7-712 by adding the words, "accredited tribal colleges, located in Montana". The bill would authorize the Superintendent of Public Instruction to distribute adult education funds for the support of an adult education program operated by an accredited tribal college in Montana. **REP. JUNEAU** distributed additional information to punctuate her testimony, **EXHIBIT (eds52a03)**.

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**Proponents' Testimony:**

**Bill Cooper, Office of Public Instruction**, testified that HB 267 would put tribal colleges on equal footing with other community colleges in the state.

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**Opponents' Testimony:** None

**Informational Testimony:** None

**Questions from Committee Members and Responses:**

**SEN. BUTCHER** asked if there were federal programs available for vocational education programs on reservations. **REP. JUNEAU** related that Carl Perkins monies were available for tribal colleges. She clarified that the funding source for tribal colleges generated from a federal act specifically designed for tribal college programs.

**SEN. BUTCHER** wondered if all the tribal colleges were designed with an academic focus. **REP. JUNEAU** claimed the programs at each of the tribal colleges on Montana's seven reservations varied with the needs of each reservation community.

**SEN. BUTCHER** questioned the type of adult education programs that were integrated into the tribal colleges. **REP. JUNEAU** responded that additional needs would include high school equivalency programs, literacy training and courses that would strengthen job skills.

**SEN. JACK WELLS** queried whether the programs would provide follow-up training to students that hadn't graduated or if the programs would help adults help their own children. **REP. JUNEAU** argued that education was the best tool to strengthen families.

**SEN. WELLS** wondered why the large number of students that have chosen not to graduate would choose to enter an adult education program. **REP. JUNEAU** rationalized that many students realize after dropping out that they need better job skills to be competitive in the work force. She reminded the committee that they could not re-enter high school after the age of nineteen so the only option they would have would be GED programs.

**SEN. ELLINGSON** asked how adult education funds were obtained from the Superintendent of Public Instruction and how a GED program

would be developed in the tribal colleges. **Bill Cooper** related that all the tribal colleges have a GED program and compete with each other for funds. Currently, tribal councils can only access federal dollars. He indicated the bill would allow the tribal colleges to accept state money.

**SEN. JOHN BOHLINGER** addressed **SEN. WELLS'** question concerning the thought that school dropouts would not want to enter an adult education program. He hypothesized that people would see the need to obtain better job skills once they had been in the competitive work force.

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**SEN. RYAN** asked for clarification on how HB 267 would affect the money a local district might place in a levy for adult education. **Bill Cooper** stated that SB 267 would not affect those levies.

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Closing by Sponsor:

**REP. JUNEAU** closed on HB 267 commenting that the state's adult education share was minimal and would continue to need more money to be successful. She maintained that HB 267 would provide more equity among the community colleges.

**CHAIRMAN BILL GLASER** announced that **SEN. PEASE** would carry the bill.

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HEARING ON HB 349

Sponsor: **REP. DICK HAINES, HD 63, Missoula**

Proponents: **Ray Ford, University of Montana, Missoula**  
**Steve Running, University of Montana, Missoula**  
**Donald Kiely, University of Montana, Missoula**  
**Vernon Grund, University of Montana, Missoula**  
**Leroy Schramm, Legal Council for the Montana**  
**University System, Helena**  
**Kay Unger, Montana Education Association/Montana**  
**Federation of Teachers**

Opponents: **None**

Opening Statement by Sponsor:



**REP. DICK HAINES**, testified that HB 349 would allow an employee of the Montana university system or an individual working on behalf of the university system, to serve on the board of directors or other governing board of an entity that had an agreement with the university system. The employee who, as part of the employee's authorized work for the university system, conceives, creates, discovers, invents, or develops intellectual property could own or be awarded equity interest in the intellectual property.

*{Tape : 2; Side : A; Approx. Time Counter : 4 - 11}*

**Proponents' Testimony:**

**Roy Ford, Associate Vice President for Information Technology, at the University of Montana** rose in support of HB 349. **Mr. Ford** submitted written testimony, **EXHIBIT(eds52a04)**.

**Steve Running, representing the University of Montana Forestry School**, recited support of HB 349 by sharing his experiences writing software for NASA satellites. **Mr. Running** reported that because of laws that limit his participation in his research, he will have to sit on the side lines while other entities in other states build the business around his data and research.

**Donald Kiely, University of Montana**, rose in support of HB 349. **Mr. Kiely** submitted written testimony, **EXHIBIT(eds52a05)**.

**Vernon Grund, Chairman of the Department of Pharmaceutical Sciences at the University of Montana**, offered enthusiastic support for HB 349. **Mr. Grund** alleged the bill would stimulate economic development in the bio-tech industry in the state of Montana. He asserted the bill would allow the technology to be created in the state by people that would love to see their ideas flourish and remain in the state.

**Leroy Schramm, Legal Council for the Montana University System**, avowed support for HB 349. He explained the current patent policy regarding research performed at the universities. He reiterated that because of a conflict of interest, the university could not participate directly with the inventing faculty member in a start-up corporation. The university would have to license the invention to a third party.

**Mr. Schramm** believed that the bill would hold faculty in the state, allow inventions to be developed in the state and increase the monetary return to the universities.

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**Kay Unger, Montana Education Association/Montana Federation of Teachers**, presented support for HB 349. She justified the bill would allow businesses to use the intellectual development of the higher education institutions, while allowing graduate students to work with a higher quality of faculty members. The bill would benefit the funding mechanism for higher education because the universities and private industries would become more closely interrelated.

**Opponents' Testimony:** None

**Informational Testimony:** None

**Questions from Committee Members and Responses:**

**SEN. ELLINGSON** wondered if current intellectual property, produced by university professors, would belong to the university. **Mr. Schramm** agreed, with the exception of work contracted through a grant from a corporation.

**SEN. ELLINGSON** queried whether graduate students would own their own intellectual property produced by their own independent research. **Mr. Schramm** asserted that the graduate students would be in a better position, since they would not be governed by state conflict of interest because they are not state employees.

**SEN. ELLINGSON** asked for an explanation of how the passage of the bill would affect the work accomplished by **Mr. Running**. **Steve Running** purported that the bill would allow him to engage in a joint venture with the university that would allow private development with a company to develop his software. He restated that the current law would not allow him to participate in a company that would develop the product.

**SEN. ELLINGSON** echoed that **Mr. Running's** expertise in the project would be lost in further development under current law, which would be an impediment to the accelerated development. **Mr. Running** agreed that he could not work with the company and could not be a co-owner without the passage of HB 349.

**SEN. COBB** referred to page 1, line 19-20 stating that the term, "proprietary nature", should be deleted from the bill. **Eddye McClure** agreed that the phrase could be omitted. **REP. HAINES** agreed with the suggestion from **SEN. COBB** believing that the amendment would make the bill more consistent.

**SEN. MIGNON WATERMAN** wondered if allowing faculty to serve on the boards of companies would create headaches. **REP. HAINES** informed the committee that **SEN. WATERMAN'S** concern had arisen in the House Committee and on the floor. He maintained that the intent would be to bring people into the state that would require the intellectual property of the universities.

**SEN. MIKE SPRAGUE** questioned the definition of intellectual property on page 2, lines 5-9. He wondered why the effective day was dependent on passage and approval. **Leroy Schramm** stated that the bill was not spurred by any specific project.

**SEN. SPRAGUE** wondered if **Mr. Schramm** was concerned from a legal standpoint, that an idea could be claimed by others from an earlier period of time. **Mr. Schramm** reasoned that the definition would define the subject matter over which the university and the faculty member could collaborate.

**SEN. SPRAGUE** reminded the committee that ideas are a collective process. **Mr. Schramm** stated that the university could not develop something it didn't own.

**SEN. BUTCHER** debated that universities may be moving out of the realm of academic research to selling that research to the highest bidder. **Mr. Schramm** affirmed the bill would allow the fruits of state research to remain at home.

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**SEN. BOHLINGER** enthusiastically endorsed HB 349. He guessed that the state would be in jeopardy of losing college professors to the other eight states that have endorsed legislation similar to HB 349. **Donald Kiely** responded that he would not move again, but the potential for his technology could be lost.

**SEN. RYAN** wondered where Montana would stand in relation to the curve. **Larry Schramm** described the bill as being modeled on legislation from Texas and Ohio and would put Montana in the mainstream.

**SEN. RYAN** surmised the bill would attract quality faculty to Montana. **Mr. Kiely** enthusiastically agreed.

**CHAIRMAN GLASER** announced that **SEN. BOHLINGER** would carry the bill.

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Closing by Sponsor:

REP. HAINES closed on HB 349.

*{Tape : 3; Side : A; Approx. Time Counter : 6 - 7}*

EXECUTIVE ACTION ON HB 349

Motion/Vote: SEN. COBB moved that HB 349 BE AMENDED "TO STRIKE THE WORDS PROPRIETARY NATURE ON PAGE 1, LINE 20". Motion carried 13-1 with Ryan voting no.

Motion/Vote: SEN. ELLIS moved that HB 349 BE CONCURRED IN AS AMENDED. Motion carried 14-0.

EXECUTIVE ACTION ON HB 134

Motion/Vote: SEN. WATERMAN moved that HB 134 BE CONCURRED IN. Motion carried unanimously.

EXECUTIVE ACTION ON HB 267

Motion/Vote: SEN. WATERMAN moved that HB 267 BE CONCURRED IN. Motion carried unanimously.

EXECUTIVE ACTION ON HB 249

Motion/Vote: SEN. WATERMAN moved that HB 249 BE AMENDED (HB024901.aem) **EXHIBIT**(eds52a06). Motion carried unanimously.

Motion/Vote: SEN. WATERMAN moved that HB 249 BE CONCURRED IN AS AMENDED. Motion carried unanimously.

**ADJOURNMENT**

Adjournment: 5:45 A.M.

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SEN. BILL GLASER, Chairman

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LINDA ASHWORTH, Secretary

BG/LA

**EXHIBIT (eds52aad)**